

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

NEW ENGLAND CARPENTERS HEALTH)
BENEFITS FUND, PIRELLI ARMSTRONG)
RETIREE MEDICAL BENEFITS TRUST;)
TEAMSTERS HEALTH & WELFARE FUND)
OF PHILADELPHIA AND VICINITY;)
PHILADELPHIA FEDERATION OF)
TEACHERS HEALTH AND WELFARE)
FUND; DISTRICT COUNCIL 37, AFSCME -)
HEALTH & SECURITY PLAN; JUNE)
SWAN; BERNARD GORTER, SHELLY)
CAMPBELL and CONSTANCE JORDAN)

Plaintiffs,)

v.)

FIRST DATABANK, INC., a Missouri)
corporation; and McKESSON)
CORPORATION, a Delaware corporation,)

Defendants.)

C.A. No. 1:05-CV-11148-PBS

**CLASS PLAINTIFFS' REPLY TO McKESSON'S RESPONSE TO PLAINTIFFS'
MOTION FOR LEAVE TO FILE A REPLY**

Class Plaintiffs moved for leave to file a reply to McKesson's submission relating to the November 13, 2007, hearing on aggregate damages (*see* Dkt. No. 381). Plaintiffs' request was based on McKesson's submission of new and erroneous arguments, its shift in position regarding the pivotal correlation issue, and the receipt of new evidence further impeaching McKesson's "recoupment" defense. For example, among the new issues raised was McKesson's suggestion as to limited discovery, a proposal not previously raised or proposed to Plaintiffs' to which the reply filing responds.

In response to that motion, McKesson has indicated that it does not oppose the filing of Plaintiffs' reply brief provided that McKesson is *also* permitted an opportunity to file a reply. *See* Dkt. No. 383. Plaintiffs believe that McKesson should not be permitted to file a reply. McKesson offers no reason for why it should have another brief, it doesn't claim that Plaintiffs raise new material; it just assumes that it is entitled to the last word on any motion filed in this case. Second, Plaintiffs do not believe that any reply that McKesson submits would assist the Court or otherwise help elucidate the issues. Each time McKesson makes a filing, it contains errors of both fact and law and, usually, new positions which, in fairness, require Plaintiffs to respond. For these reasons, and because Plaintiffs have the burden on the motion for class certification, Plaintiffs respectfully submit that they should be provided the final briefing opportunity on this motion. Accordingly, McKesson's request to file yet another brief should be denied.

DATED: December 6, 2007

By /s/ Steve W. Berman

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party through the Court's electronic filing service on December 6, 2007.

/s/ Steve W. Berman
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